

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application Of: )  
Charles A. SHOTTON, Jr. *et al.* ) Group Art Unit: 2171  
Application Number: 09/902,796 ) Examiner: Cam Linh T. NGUYEN  
Filed: July 12, 2001 ) Confirmation No.: 7467  
)

For: APPARATUS FOR AND METHOD OF SELECTIVELY RETRIEVING  
INFORMATION AND ENABLING ITS SUBSEQUENT DISPLAY

**MAIL STOP AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

The following responds to the Office Action mailed on April 7, 2006 (“Office Action”). Attached are a Notice of Appeal and checks covering fees for the Notice of Appeal and a one-month extension of time.

Claims 1-29 are pending in the present application. Applicants respectfully requests that the members of the Pre-Appeal Brief Conference (the “Conference”) allow all pending claims in view of the following remarks.

**I. The Cited References Fail To Disclose Using Multiple Techniques To Identify Data**

Claims 11 and 23 are generally directed to using multiple techniques to select a set of data. Broadly defined, the claimed invention is directed to selected retrieval and display of data, *e.g.*, from a newspaper web page that frequently changes. In general, it is challenging to correctly and automatically select a specific and constantly-changing portion of such a web page, *e.g.*, the headlines only. Claims 11 and 23 therefore recite limitations directed to using multiple techniques to select and retrieve changing data. Specifically, claim 11 recites in part, “first identifying means,” “second identifying means,” and “third identifying means.” Claims 23

recites in part, “determining a first candidate for said third data using said first strategy, a second candidate using said second strategy, and a third candidate for said third data using said third strategy.” For support, see, *e.g.*, Specification, pages 12-13, paragraphs 61-65. The cited references, either alone or in combination, fail to disclose these limitations.

The Office Action glosses over these claims, attempting to collectively address claims 11, 12, 13 and 23 with the following analysis: “As per claims 11-13, DOUGLIS and Stevens disclose: ‘Identifying first, second, third candidates’ (see page 7-8, Douglis).” Office Action, page 8. Also, on page 10, the Office Action states: “As per claim 23, Claim 23 is rejected based on the rejection of claim 1, 11-14, and 22-23 [*sic*].” These quotes represent the totality of the Office’s analysis regarding claims 11, 12, 13 and 23.

However, Douglis fails to disclose using multiple techniques for identifying or determining changing data. Instead, Douglis explicitly discloses that a *single* technique is used to generate a difference markup. Without conceding that Douglis’ difference markup corresponds with any feature of the claimed invention, Applicants note that the pages cited in the Office Action explicitly and unequivocally disclose using a single comparison algorithm referred to as the “LCS algorithm.” *See* Douglis, page 7, second column, second and third full paragraphs (“We apply Hirschberg’s solution... This is the well-known comparison algorithm used by the UNIX *diff* utility [10].”). Note that Douglis dismisses the possibility of using any algorithms other than the LCS algorithm taken by itself. *See* page 7, section 5.1. In fact, Douglis discusses and then dismisses the idea of using algorithms that view HTML documents as words with content-defining markups or as hierachal documents. *See* Douglis, page 7, section 5.1, second and third paragraphs. Nowhere does Douglis discuss using any technique other than the LCS algorithm. In short, Douglis entirely fails to consider using multiple techniques for identifying desired data.

Claims 11 and 23 thus clearly distinguish over the art of record. Applicants therefore respectfully request that the Conference reverse the rejections and pass the claims to issue.

**II. Other Concerns Regarding The Clarity Of The Office Action**

Applicants state here for the record additional concerns regarding the clarity of the Office Action. First, in rejecting independent claims 1 and 22, the final Office Action addresses a limitation that *does not appear* in either claim. Specifically, the Office Action considers, in relation to the rejection of claims 1 and 22, “a second set of data from a second predetermined data source.” Office Action, page 7. However, this limitation appears only in claim 14. Applicants noticed this problem, which also appeared in the non-final Office Action, and pointed it out in the response of February 13, 2006. However, the rejection of independent claims 1 and 22 in the final Office Action is identical to that of the non-final office action, still rejecting claims 1 and 22 based on a clearly erroneous interpretation of those claims.

Second, the Office Action plays a shell game with claim term interpretation such that Applicants are not able to properly understand the Office’s position and properly respond. For example, with respect to claim 14, the non-final Office Action stated that the “second set of data” corresponds to “the modification data of the page such as time of modification or new information.” *See* non-final Office Action, page 5. In the “Response to Arguments” section of the final Office Action, however, the “second set of data” now corresponds to “the second page or second version of the web page that includes the first version (page) and modification data.” Office Action, page 11. This is a distinction with a difference. For example, claim 14 refers to a “second subset of data included in said second set of data.” The non-final Office Action fails to address this limitation. For the first time, however, the final Office Action interprets this “second subset of data included in said second set of data.” *See* Office Action, page 11. Moreover, this new interpretation is inconsistent with the earlier interpretation of “second set of data.” Although the Office is entitled to the broadest reasonable interpretation of claim terms, such interpretation must be consistently, rather than selectively, applied.

Applicants are improperly prejudiced by the issues of clarity of which the above are but two examples. Applicants accordingly request, at a minimum, that that Conference remand to the Examiner so that the Office’s position may be clarified and so that Applicant may be given the opportunity to respond without being prejudiced by inconsistent claim interpretation.

**III. Conclusion**

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. Applicants respectfully request that the Conference hold that the claims are allowable. In the event that a variant exists between the amount tendered and that determined by the U.S. Patent and Trademark Office to enter the present Arguments, the associated Pre-Appeal Brief Request For Review, the Notice Of Appeal, or to maintain the present application pending, please charge or credit such variance to the undersigned's Deposit Account No. 50-0206.

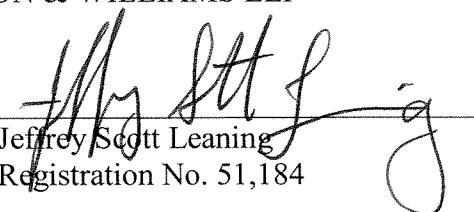
Dated: August 7, 2006

Respectfully submitted,

Hunton & Williams LLP  
Intellectual Property Department  
1900 K Street, N.W., Suite 1200  
Washington, DC 20006-1109  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)

HUNTON & WILLIAMS LLP

By:

  
Jeffrey Scott Leaning  
Registration No. 51,184